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Return Date & Time:
MAY 18, 2016 9:30 AM

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X Chapter 13 Case No: 116-40104-NHL
IN RE:

NOTICE OF MOTION

AIXA MUIR
a/b/a Ludlow Barrow Assoc.
Debtor.

-----X

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Nancy Hershey Lord, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, 271 Cadman Plaza East, Brooklyn, New York, Courtroom 2529 on MAY 18, 2016 at 9:30 AM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. Section 1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Marianne DeRosa, Esq., no later than seven (7) business days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Syosset, New York
April 27, 2016

/s/ Marianne DeRosa
MARIANNE DeROSA, TRUSTEE
115 EILEEN WAY, SUITE 105
SYOSSET, NEW YORK 11791
(516) 622-1340

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:

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AIXA MUIR
a/b/a Ludlow Barrow Assoc.

Chapter 13 116-40104-NHL

Debtor.

APPLICATION

-----X

TO THE HONORABLE NANCY HERSHY LORD, U.S. BANKRUPTCY JUDGE:

Marianne DeRosa, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on JANUARY 11, 2016, and, thereafter, Marianne DeRosa was duly appointed and qualified as Trustee.
2. The Debtor's proposed Amended Chapter 13 Plan, (hereinafter "The Plan"), dated and filed with the Court on March 31, 2016, and reflected in the Court's docket as number 26 provides for a monthly Plan payment of \$359.80 per month for a period of 60 months. Additionally, The Plan provides for full repayment to all filed secured and priority proofs of claim, as well as a pro rata distribution to general unsecured proofs of claim.
3. The Trustee objects to the confirmation of the Plan because the Debtor's proposed Plan is insufficient to pay secured claims in full as required by 11 U.S.C. §1325(a)(5) and the Debtor's supporting budget, Schedules I and J, does not indicate an ability to increase the plan payments.
4. Furthermore, the Debtor has failed to:
 - a. provide the Trustee with proof of post-petition mortgage payments seven business days before the first meeting of creditors as required by E.D.N.Y. LBR 2003-1(a)(vi);
 - b. provide the Trustee with proof of post-petition mortgage payments seven days before the first date set for confirmation of the Chapter 13 Plan as required by E.D.N.Y. LBR 2003-1(b)(i);
 - c. provide the Trustee with verified monthly operating reports as required by E.D.N.Y. LBR 2015-1;
 - d. provide the Trustee with a copy of a federal income tax return or transcript for the most recent year 7 days before the first meeting of creditors pursuant to 11 U.S.C. § 521(e)(2)(A)(i);

e. comply with 11 U.S.C. §1325(a)(6) in that the Debtor has not submitted timely Chapter 13 plan payments to the Trustee, and is \$5,995.61 in arrears through and including April 2016.

5. The Plan cannot be confirmed and as a result a delay has occurred that is prejudicial to the rights of creditors. The case must be dismissed under 11 U.S.C. § 1307(c)(1) and (c)(5).

6. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order denying confirmation and dismissing this Chapter 13 case and such other and further relief as may seem just and proper.

Dated: Syosset, New York
April 27, 2016

/s/ Marianne DeRosa
Marianne DeRosa, Trustee

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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IN RE:

AIXA MUIR
a/b/a Ludlow Barrow Assoc.

CERTIFICATE OF SERVICE
BY MAIL

Debtor.

-----X

This is to certify that I, DANI M. BOYER, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

AIXA MUIR
1192 BUSHWICK AVENUE
BROOKLYN, NY 11221

KIVA JAMES, ESQ.
344 AVENUE U, STE 628
BROOKLYN, NY 11233

NATIONSTAR MORTGAGE, LLC
C/O DAVIDSON FINK, LLP
28 EAST MAIN STREET, STE 1700
ROCHESTER, NY 14614

OCWEN LOAN SERVICING, LLC
C/O LEOPOLD & ASSOCIATES, PLLC
80 BUSINESS PARK DRIVE, STE 301
ARMONK, NY 10504

This April 27, 2016

/s/DANI M. BOYER

DANI M. BOYER, Paralegal
Office of the Standing Chapter 13 Trustee
Marianne DeRosa, Esq.
115 Eileen Way, Suite 105
Syosset, New York 11791
(516) 622-1340

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NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE

MARIANNE DeROSA, TRUSTEE
115 EILEEN WAY, SUITE 105
SYOSSET, NEW YORK 11791
(516) 622-1340
